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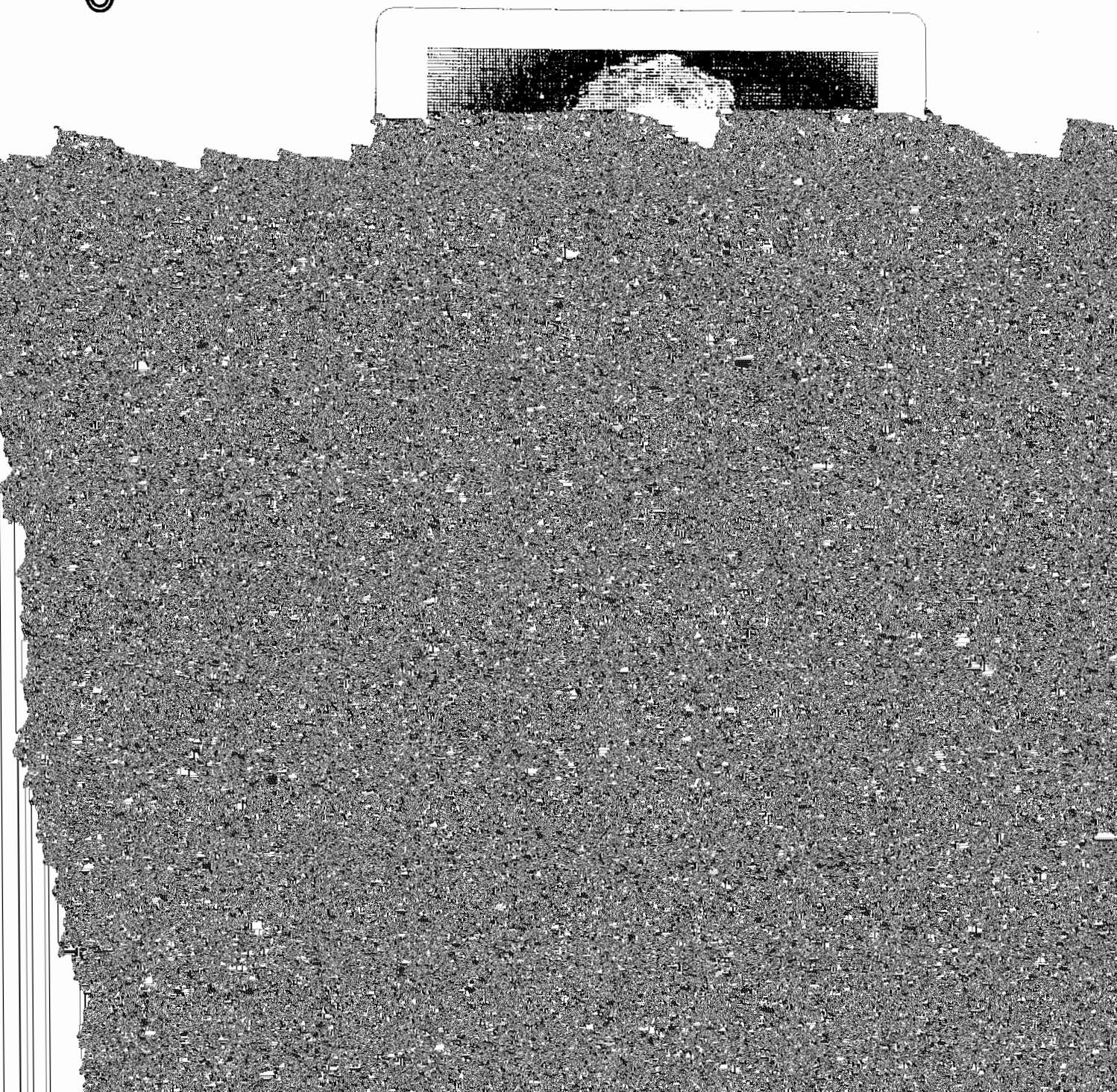
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The Preparation of the Standard State Soil Conservation Districts Law

An Interview with Philip M. Glick



THE PREPARATION
of the
STANDARD STATE SOIL CONSERVATION DISTRICTS LAW:
An Interview with Philip M. Glick

U.S. Department of Agriculture
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INTRODUCTION

During several sessions in May and June 1983, Philip M. Glick explained to me

PHILIP MILTON GLICK

Philip M. Glick was born in Kiev, Russia, on December 9, 1905. After the family immigrated to Chicago, Illinois, Glick graduated from Crane Junior College, 1924-1926; the University of Chicago, cum laude, 1928; and also the University of Chicago Law School, cum laude, 1930. He married Rose Deborah Rosenfield on May 13, 1933. In 1933, he began his career with the Federal Government as General Counsel of the Subsistence Homesteads Corporation, Department of the Interior. From 1933 to 1942 he was Chief, Land Policy Division, and later, Assistant Solicitor, Office of the Solicitor, U.S. Department of Agriculture. Other jobs in the Federal Government included Solicitor (1942-1944); later Deputy Director of the War Relocation Authority (1945-1946); General Counsel of the Federal Public Housing Authority (1946-1948); General Counsel of the Institute of Inter-American Affairs (1948-1953); and Legal Counsel of the Technical Cooperation Administration, U.S. Department of State (1951-1953).

Glick was Visiting Professor of Economic Development and Cultural Change at the University of Chicago, 1953-1955, and thereafter entered private practice as a partner in the law firm of Dorfman & Glick, 1955-1967. Later he served as Legal Advisor of the Federal Water Resources Council, 1967-1969, and Legal Counsel of the National Water Commission, 1969-1973. He lives in Chevy Chase, Maryland.

May 12, 1983

HELMS: Mr. Glick, as we start out, could you give us your date and place of birth, where you grew up, something

ghetto in Chicago. It was a melting pot if ever there was one. Most of the European nations had former citizens in William McKinley High School. William McKinley High School was on the west side of Chicago and it drew from all

ways had a certain verbal facility, a certain verbal gift. This is what people assume makes a good lawyer, so they told me I was going to be a lawyer. I accepted that; that seemed to me to be a natural thing. Furthermore, the more I learned about lawyers and law and the United States, the greater respect I had for the profession. So I knew even as a child what I was going to do. I also found when I graduated from high school that Chicago charged \$75 a quarter as tuition. The University ran a four quarter year. That meant that it was going to cost me \$225 a year for just tuition, not counting fees and books. At that time it seemed a tremendous sum of money.

As a matter of fact, my parents told me

it was very good, very adequate. When I graduated from Crane Junior College and wanted to matriculate in the University of Chicago, for example, they required only that I--and this they required of every single freshman, way back then--that I register for a course in English composition. They said every student has to be able to write. He has to know a sentence. So I took that course.

I was infatuated with my first year at the University of Chicago. I think that was and has remained the happiest single year of my life. I took chiefly courses in philosophy and sociology. I decided then that I had a great dilemma, a great problem. Should I go on

o'clock and class had begun at one. I think I had begun reading sometime between eleven thirty and twelve. I realized that it was now too late; I couldn't get to class on time. But I mention this as indicative of the kind of teaching, the kind of stimulus, that one got at the University of Chicago and why I said that that one year was really the happiest single year that I had.

We had a course in sociology and the text book had an enormously ambitious title. It was called An Introduction to the Science of Sociology. Now, an introductory book in chemistry doesn't say so

cetera, etcetera. So conflict became competition. As the competition continued and as people learned more about each other, they would enter the third stage, which was accommodation. It almost really explains itself in terms of what I have already said. And from that accommodation, if the process continues, without violent disruptions from the outside, the final stage is assimilation. The differing cultures and attitudes, even the differing languages come into an assimilationist process which produces not a homogeneous society, but a society in which all the varying elements can play their part and

have learned to swim. I still swim three times a week.

I graduated from the University of Chicago, and got very good grades. My degree was awarded cum laude. Then I entered the University of Chicago Law School. I had overcome my hesitancy

United States, will be a very, very difficult row for you to hoe. You are Jewish. Philosophy is the closest to divinity studies of any of the academic disciplines." You remember, of course, this was in the 1920s. He said, "You are going to find advancement difficult. You are going to find it difficult to get

deal of the supplemental food they would need. Milk and eggs and vegetables and chickens. What he wanted was to run a program in which the Federal government would help states and localities establish small subsistence homesteads.

This sounded very exciting. It sounded much more important than reviewing applications for loans and grants to build water works and sewage facilities in cities and towns all over the United States. And I liked M.L. I was nowhere near approaching Harold Ickes, who was the Administrator of Public Works. The whole atmosphere sounded awfully good to me and I did transfer. My first real job in the government was in the Federal Subsistence Homesteads Corporation. Within about a year I became general counsel of the corporation. But that sounds much more than it was. We had a total legal staff of three. I had two lawyers on my staff. Since the Corpora-

came fairly controversial.

GLICK: Yes. One of M.L. Wilson's close friends was an economist by the name of Ralph Borsodi, who was both an economist and an educator. He had built a subsistence homestead for himself in New York State in order to demonstrate the effectiveness of a subsistence homestead. He had had a great deal of influence on M.L. M.L. knew about Borsodi and his works before he ever came to Washington himself. M.L. was a great decentralist. This will come out with great power and strength as soon as we get to talking about soil conservation districts.

M.L. believed that in as large and diverse a nation as the United States, and with a governmental structure that represented a federation of 48 sovereign, independent states, trying to operate nationwide programs wholly out of

over the money, at least to the extent that if it saw any gross inefficiency, or certainly any threat of corruption and abuse, theft, or waste of money and resources to any substantial extent; it could step in. It wanted to retain such potentially complete control, complete where necessary, less complete where possible. At the same time, it wanted to delegate.

M.L. believed in this profoundly. He said, "You cannot fool the people to whom you say you are delegating authority, if you don't in fact delegate authority. If they are not really helping make and carry out policy, if they are not even free to make mistakes, because they think that something is the right thing to do whether Washington thinks so or not, then you won't actually have delegated authority. The pretense will do more harm than good. The newspapers will discover they have not really delegated authority to the Subsistence Homesteads. This is just a lot of talk and palaver. Washington is running the entire show. The homesteaders will discover this. The people running the Subsistence Homestead Project will discover this. You will not only not have achieved delegation, but you will have introduced sources of conflict into the project. The projects will fail."

M.L. was convinced of this. In part, this is what Ralph Borsodi and other decentralists told him. But, more important, this was the essence of M.L.'s philosophy. As a director of agricultural extension work in Montana, he had known and taught this kind of principle. The county agent must work with the farmer and teach him. But he must remember whose

farm it is, remember who has to be the real boss in the situation.

We developed a very interesting type of administrative structure--interesting but, of course, not a wholly new idea. At that time the Federal Subsistence Homesteads program was being run by the Subsistence Homesteads Division of the Interior Department. Mr. Fritts and I decided that we should incorporate the division and organize it under the laws of a state. We chose Delaware, which has a very broad incorporation statute. A great many private corporations in the United States are organized under the laws of Delaware. It's the favorite incorporation state as a matter of fact.

We organized a parent corporation. In the charter of the corporation, we gave it explicit authority to organize subsidiary corporations in any state of the Union under the laws of the state. But all of the stock of each subsidiary corporation was to be given to the parent Federal Subsistence Homesteads Corporation as security for a loan that the parent corporation would make to the individual subsistence homesteads corporation for the purchase of land, the building of houses, and the operation of a subsistence homestead project. Therefore, we now had a federal corporation that was organized in Delaware, reporting to the State of Delaware, and giving annual reports, etcetera. We had a number of subsistence homestead projects. I've forgotten now in how many states. At least close to two dozen, I think. Every one of those projects was organized as a local subsistence homestead community.

There was an Alabama Subsistence Homesteads Corporation, a New York Subsistence Homesteads Corporation, and so on, in every state where we set up a project.

First we organized that local corporation. We owned the stock. The Federal, parent corporation owned all of the stock in the local corporation. The Federal Division of Subsistence Homesteads talked to the state extension service and to the people whom it had brought in as public representatives without salary to advise and help organize such a project. People were, in those days of fighting the depression, eager to come in and take unsalaried jobs to just give whatever leisure

that they would make a loan of so much money, which sometimes went as high as two million dollars, as I recall vaguely now. It always had to be enough of a loan to enable them to buy land for building a new community. It had to make available to every family in the community at least an acre of land, and usually more than that, a little more than that. The loan also had to enable the subsidiary corporation to buy machinery and equipment which it would then lend to the subsistence homesteaders whom it brought in.

We then had to draft a model contract which each subsidiary corporation could

the corporation stock they issued.

suspending payments and loans and other
activities of the Federal Subsistence

the country. The county agents were told, "They are going to need your help. They are going to need your help on how to prepare the soil, about seeds and fertilizer, and pesticide control and weed control. They are going to need your help on looking after a cow and pasteurizing the milk." They are going to need a great deal of county agent help."

The general impression that I have now certainly is that the state extension

a temporary thing.

GLICK: Yes. Yes.

HELMS: Although you were going to have community buildings and community ownership of community property. That would presumably continue....

GLICK: That would presumably continue. Then they would simply operate

attributed these ideas to M.L. Wilson. It's a long time since I read that article. I do remember that we laughed at it in the Division, that we thought this was too rosy a picture.

HELMS: You weren't getting into the things that they got into later, such as setting up factories and giving sources of employment within the community?

GLICK: Well, you see....

HELMS: That was up to the individual corporation?

GLICK: I joined the Federal Subsistence Homestead Corporation in November, 1933; November or December, 1933. In August of 1934, less than a year later, M.L. Wilson was persuaded by Secretary of Agriculture Henry Wallace to resign as Director of Subsistence Homesteads and go to the Department of Agriculture to become the Director of the Corn-Hog Program, which was one of the initial programs established by the Agricultural Adjustment Administration. Shortly after that, M.L. was promoted from that program to become Assistant Secretary of

found me a congenial lawyer to work with. Since he was himself not sufficiently articulate except on technical agriculture problems, I could help him articulate what he wanted to say in particular areas. So he wanted me to work with him. I did transfer at a slight reduction in salary. I was so much attracted by the prospect of working with him, continuing as lawyer to the Assistant Secretary of Agriculture.

Jerome Frank was then General Counsel of the Agricultural Adjustment Administration, and so M.L. arranged for me to talk to Jerome Frank. Jerome, after he looked at my background and talked to me, approved my appointment. But he said that he would approve my being earmarked to be available whenever M.L. Wilson wanted a legal problem worked on. At the same time I was to remember that I was a member of the legal staff. My boss was Jerome Frank and I was to keep him fully informed about everything that I did, every new problem that was laid before me. Any memoranda that I issued, copies were to go to Jerome

"I'm sure there won't be any problem."

You see the reason I started in on this is that after 1934, which is only a year after I had become General Counsel of Federal Subsistence Homesteads, I ceased to have anything to do with it. Now, all of the later problems that developed became problems with what was called the Farm Security Administration, FSA. When Subsistence Homesteads, in fact, was transferred from Interior to Agriculture, it was transferred to the Farm Security Administration. Although M.L., as Assistant Secretary of Agriculture had, of course, a certain review jurisdiction over FSA, nevertheless he had many more dif-

program, I wanted something more than my memory that I could call upon to justify it. This was an article over 40 pages long in the Yale Law Journal, and I was very happy when the Yale Law Journal agreed to publish it. Because this gave it a considerable stamp of approval by the legal profession.

Actually there were no later questions. I sent copies of the article, reprints, to the legal staff of the General Accounting Office so that they would be informed in advance. I think that helped, the mere fact that the General Counsel of the Federal Subsistence Homesteads had laid it all out on paper, had raised

more about me. Inevitably, much would be delegated to me. Inevitably, M.L. would be asking me oral questions and relying on my oral answers. Jerome knew that. He was testing me out, I think. In any event, for the first few months after I came over to Agriculture, although M.L. asked me a number of things, usually easy questions, he was just learning his own job. I was really working entirely on the problems for AAA that Jerome Frank had sent over to me.

Then in the spring of 1935, M.L. Wilson called me in one morning and said, "Philip, I have a number of ideas working around in my mind. I need some answers. I don't know what the answers should be. I don't know what questions to ask you. You are going to have to help me formulate the questions as well as the answers. We have in the Department of Agriculture now, the Soil Conservation Service. It's operating erosion control demonstration projects. It buys or leases or otherwise acquires control over considerable farm acreage on which erosion, soil erosion, is a very serious problem. Then, the Soil Conservation Service, having acquired complete control, by purchase or by contract with the owners over this acreage, develops what it calls a complete conservation plan for that particular acreage. They put in the structures, planting practices, and everything else necessary for complete conservation. Contour cultivation, strip-cropping, stopping the gullies, terracing, and all the other erosion control work necessary for that particular acreage. Then they put up signs on all four corners of this demonstration project saying this is an erosion control demonstration project of

the United States Department of Agriculture. Visiting hours are 24 hours every day. And the county agents will be here on such and such days. You are encouraged to come and learn how to make a conservation plan for your farm, how to plow and cultivate and harvest both profitably and safely. You have got to be able to make a living on your own farm and a good one. You have got to produce good crops and you have got to conserve the soil. We have exactly these same problems on this demonstration farm. Come, look see."

Then M.L. said, "Well, the farmers come to look see. Then they go home and they've got all they can handle on their own farm. They say to themselves, 'Oh yeah, it's easy for those guys to build terraces. All they've got to do is call out some of these high-paid bureaucrats and have them hold the engineering lines, and lay out the terrace, and then they bring in some of their heavy equipment. Well, where am I going to get the money for that kind of equipment? I don't know how I am going to lay out a terrace. I don't know whether a terrace is well built or not. If one of the terraces washes out or breaks out, what do I do next?'"

So M.L. said, "Come, look see is not enough to spread good conservation planning and operations from the demonstration projects on to the farms of the United States. They've got several dozen of these demonstration projects and they are going to put up some more. Do you know what the cost of the demonstration project for a single year is?" He gave me the figure in a sort of

delegate the basic problem of making a conservation plan for a particular acreage and terracing the farm, and changing the crop practices and building planting soil

particularly in the American farmers. He said as a county agent he had learned great respect for the American farmer. He told me about an experi-

problems. He remembered a time when two farmers whose farms were adjacent came to see him together and they told him that they weren't getting good crops. They weren't getting good yields. The

Well, this story of course is vastly more effective and funny when you hear the actual steps spelled out. I've never been a good enough farmer to be able to

They know what they need to do. It's economics. It's farm pressure. It's the fact that there are only 24 hours in a day. It's all of the usual reasons for human inactivity and lethargy and lateness. That explained a great deal of their not doing.

"Furthermore, I could see that every time I mentioned a piece of agricultural equipment that is costly to buy; every time they would have to go to International Harvester and borrow money to buy particular equipment, there would be a hush over a substantial part of the audience. Many of them would shake their heads as though they were saying to themselves, 'Mr. Wilson you don't know. How can a farmer buy that?'" He said, "I learned two things, that American farmers do know intimately the story of farming and erosion control. They are highly intelligent. Second, I learned that much of this they cannot afford to do. Much of this they don't see their way to do. They don't see how as farmers they can manage to do planning on this kind of a scale and terracing on this kind of a scale. How they can retire so much of their farm from cultivation, because it's deeply gullied, or because it runs up a hill. Or because there are no trees to give them shelter from snows and other problems of weather."

He said, "It's within that kind of a context that I think we need something like this. A state statute." He started originally talking about an act of Congress. It took me a great deal of time. "No, Congress couldn't do that either. Congress can't do that." Ultimately, he and I reached agreement. We are not talking

about an Act of Congress. We stopped that. Congress is going to be needed to make money available, but we are going to have to work out some other method of making Federal money available. In fact, we practically agreed that all the farmer needs from the Federal government directly is money. Money or a way to get money. In order to get technical help, machinery, equipment, planting materials, that kind of thing. That they are going to need from the Federal government, but that's all.

Furthermore, the Federal government has got to figure out some way of giving that to them without having them sign any papers with the Federal Government or borrow money from the Federal Government or owe the payback payments to the Federal Government. All that we've got to do. But beyond that, we agreed, we want a state statute that will make it possible for the Federal Government to look to the states and to these conservancy districts to do all of this work.

M.L. Wilson had this kind of a background as he started thinking about the problems of SCS and the demonstration projects. He also had the subsistence homesteads experience. He had been chosen to be Director of Subsistence Homesteads, because as a professor of agricultural economics at Montana, he had already been talking about subsistence homesteads in Montana. M.L. Wilson and H.A. Wallace had been personal friends and acquaintances for many, many years. M.L. had worked in the Department of Agriculture briefly in the 1920s when Henry Wallace's father

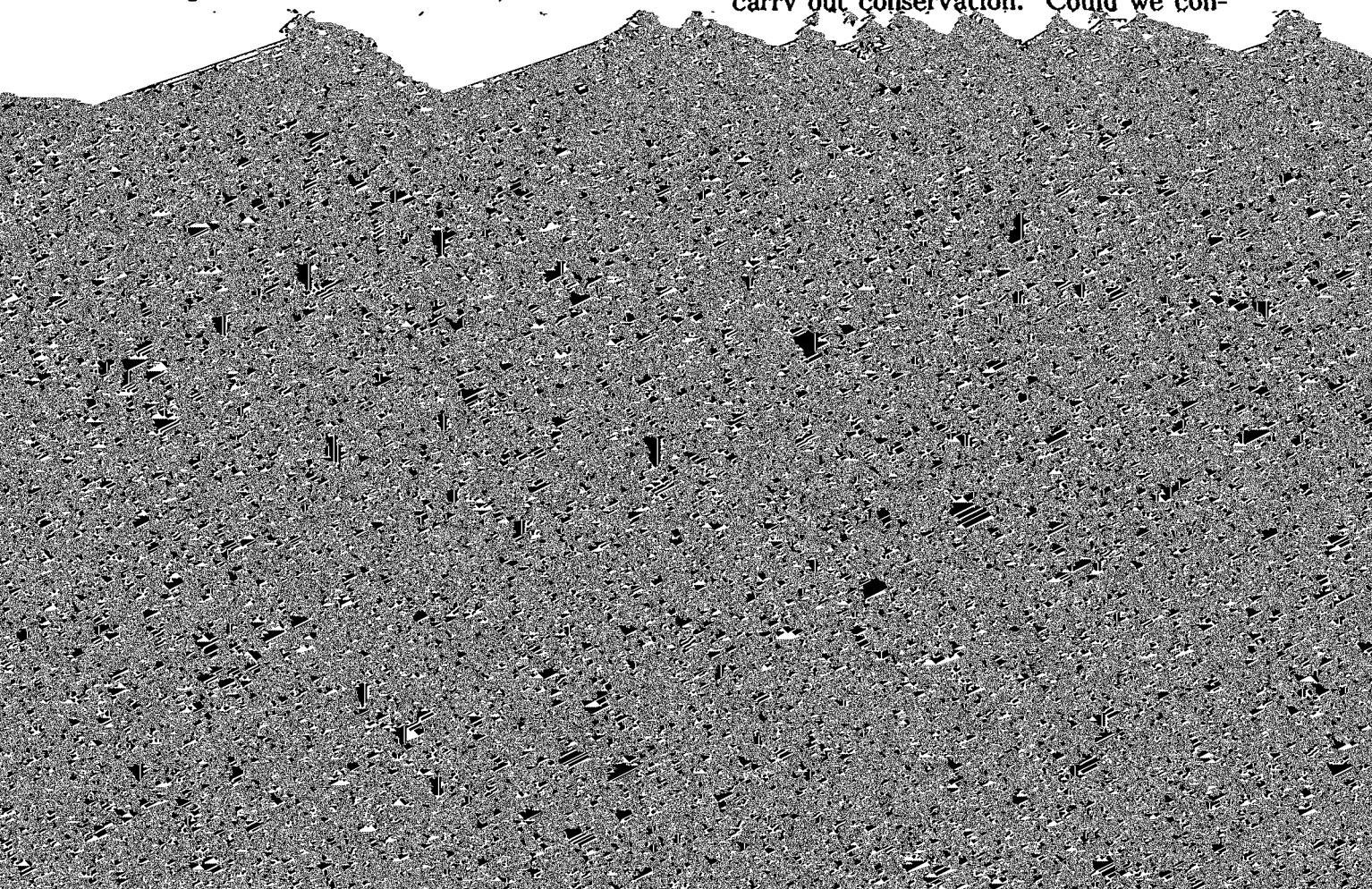
was Secretary of Agriculture. So they had this close friendship to draw upon. That's one reason Wallace drafted M.L. to come to Agriculture.

But the very same man, M.L. Wilson, who was the father of subsistence homesteads in America was also the father of the giant wheat farm. Tom Campbell of Montana wanted to accumulate gigantic acreages of wheat. He called in M.L. M.L. was the leading agricultural advisor in Montana. Campbell went to M.L. and said, "I believe that if I can figure out how to do it, get the right kind of machinery and handle it properly, I can make a lot of money growing wheat, by growing it in tremendous quantities. I want to be able to control a substantial part of the wheat market through the wheat that I grow. If I have to go out of Montana, into Idaho, or into any other state that you tell me I have to go into, I'll go there too. I believe," said Tom

revere them as something that couldn't be modified. He revered them for the fact that if they hadn't served useful purposes, they would never have grown deeply into the American culture pattern. He respected them. In that sense, he revered them. His was a very imaginative mind. He was the father of the domestic allotment plan which was the essence of agricultural adjustment. The very fact that it was M.L. who felt called upon to start thinking about soil conservation districts, had a great deal to do with the form that finally came out of them.

May 18, 1983

HELMS: Last time you had given us a portrait of Wilson after describing his calling you into the office to get you to work on this project for some way to carry out conservation. Could we con-



I pointed out in that article that the American farmer is a proud producer. He has astonished the world with his capacity to produce an abundance of food and fiber for a continental population and for export. But he is also a proud conservationist. During the last 3 decades he has changed the face of America's farms and ranches with his terraces, strip crops, contour cultivation, grassed waterways, and shelter belts. He has demonstrated that conservation farming can produce both plenty and beauty. But the American farmer would not recognize himself if you told him he was a creative political scientist. As a matter of fact, the American farmer is in the process of building a new device into the structure of American federalism, namely, the conservation district.

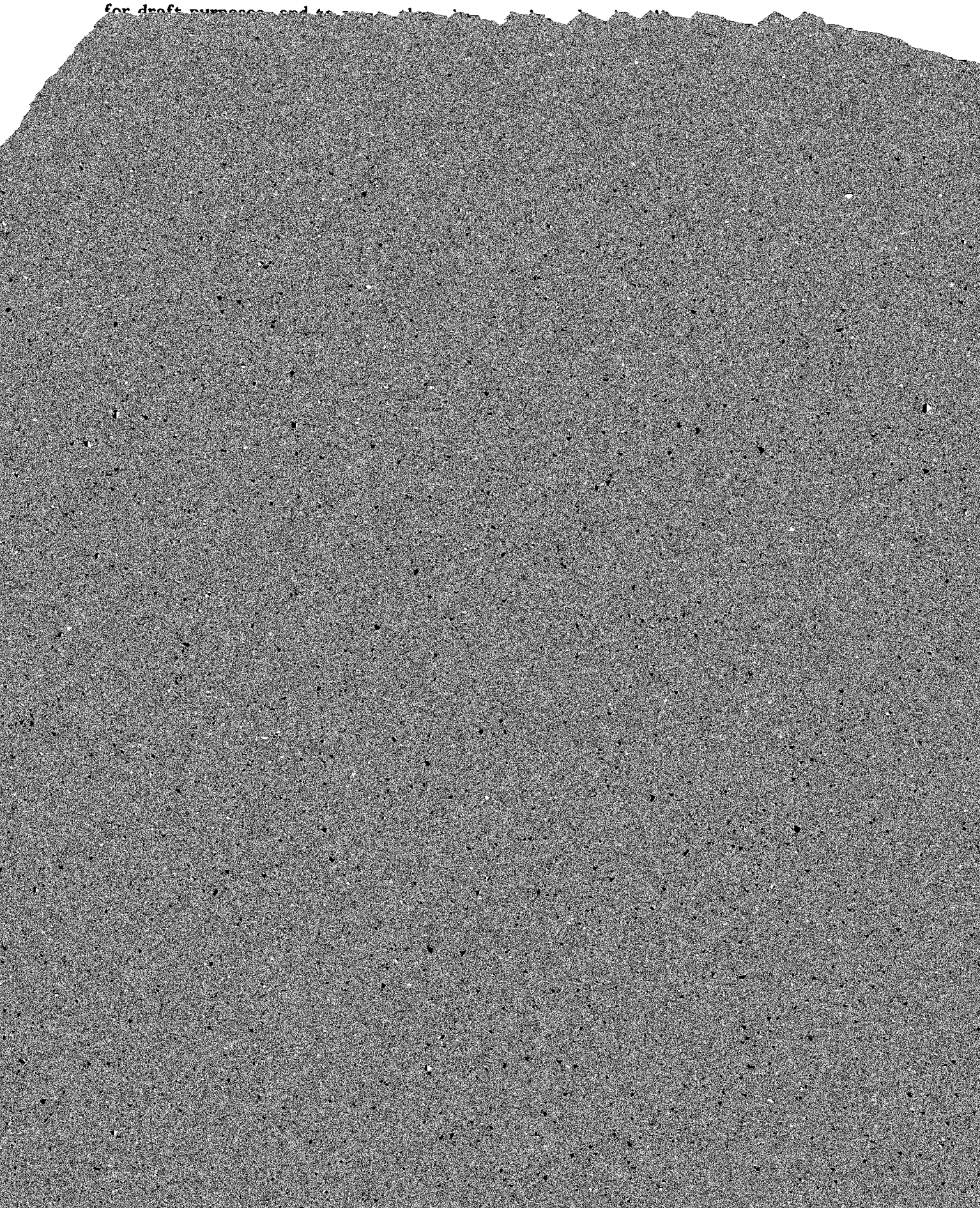
The American people are very slow and reluctant in amending the Federal Constitution. But they're very ingenious in solving problems that arise without resorting to formal amendment of the Constitution. Working within the limits of the Federal Constitution they develop devices that will bring the three levels of government; Federal, state, and local, into very close cooperation. Every school boy is taught that the Federal Government can exercise only the powers specifically delegated to it in the Federal Constitution. But the states, every one of the states, as a sovereign state gov-

government.

Saying this creates a picture, generally, of a rigid separation of power among the Federal Government, the state government and the local governments. But that isn't the kind of governmental system that American federalism has become in practice. Actually, instead of a layer-cake form of government, with three layers, Federal, state and local; we have a marble cake form of government in that governmental powers interpenetrate among the Federal, state and local governments. We do far more through cooperative action by the Federal Government, the state government and the local governments, than we do separately--the Federal Government carrying out its powers, the state governments carrying out their powers, and the local governments carrying out their powers.

People accept this in general, but they don't realize specifically how thoroughgoing is this three-level cooperation in the American governmental system. For example, consider even national defense, which you might regard as the most extreme example of the Federal Government's powers. There the Federal Government is supreme. It has exclusive authority if it chooses to make it exclusive. It can carry out and do anything necessary for national de-

for draft purposes and to avoid the use of



constitutional amendments--this genius was best expressed in the early decades of American history. It's unfortunate that successive administrations thereafter have frequently forgotten about it. We have precipitated totally unnecessary debates about the new federalism, creative federalism. American federalism

What's the Public Housing Authority? Here we have an application in the urban area, although it's also possible in suburban and even rural areas. The Public Housing Act calls upon the states to establish local housing authorities. The Federal government then provides a subsidy to the Public Housing Authority

But it also became an agency operating through state and county committees. The farmers elect the members of the state and county committees. Very intimately, in every step of this governmental process, we have all three units of government collaborating. This is by no means the end.

In the Kennedy and Johnson administrations, we developed new regional commissions, in the Regional Development Act of 1965. The best known of them is the Appalachian Regional Development Commission, but there are half a dozen or more other such regional agencies working in other parts of the government. What do they do? They develop economic development plans and help arrange for the financing through public and private collaboration.

Then we have the river basin commissions

units, in accordance with the plan developed by the regional commission. Unfortunately, the Water Resources Planning Act ran into a great deal of difficulty. It would take us too far afield to go into all of that. The Water Resources Commission is almost a dying agency today, receiving smaller and smaller Federal appropriations. The principal reason, I think, for the failure or virtual failure of the Water Resources Planning Act is the opposition of the Federal bureaucrats. The Corps of Engineers didn't want to see the regional water basin commissions develop. The Bureau of Reclamation was cool about it. Because of this opposition from the major federal water agencies, the river basin commissions never really succeeded in dealing with the hardest problems of water resource planning, among them cost sharing among federal, state and local govern-

tion of the marble cake form of our government--interpenetration and cooperation among the three levels of government. Then there were the rural community development agencies, under the consolidated Farmers Home Administration Act of 1961. And community planning agencies under the Housing and Urban Development Act of 1965. Here again, this constant reaching out for structures that will enable the three levels of government to collaborate. The article that I have referred you to actually summarizes and it goes into some detail in describing, these eleven agencies.

M.L. had always played a part in these programs. He knew them intimately. He was always concerned about them, kept in touch with them. He was a father confessor to the federal administrators who were trying to struggle with these problems. He saw the Soil Conservation Service, a new bureau in the Department of Agriculture, trying to control soil erosion over the whole continent, trying to do so through demonstration projects. I have already mentioned some of the characteristics, some of the strengths and some of the weaknesses of the demonstration project. Briefly, farmers could come and look at the demonstration project, but they didn't know how to go on from there. They didn't have the money or the technicians or the self-confidence in administration to go on from there and put upon their farms and ranches the conservation practices that the demonstration project demonstrated. M.L. saw that something was needed beyond that. He encouraged Hugh Bennett, by all means, to go ahead with the SCS program. He kept telling Hugh that this is

one of the soundest new governmental developments in agriculture. And he kept conferring with him on how well the states were collaborating. How well were they bringing farmers themselves into the program? Bennett was among the first to confess that this was an unsolved problem within SCS. "We are going to have to continue our research," he said, "we are going to have to continue our demonstration projects, but we need more than that." And he assured M.L., "We are working on that."

M.L. decided that he would do a little private thinking about that too, and help Hugh Bennett. But he decided that the best way he could help was to think it through alone, put down on paper something that would represent the definition of a problem and the structure of a program to deal with the problem, and lay that before Secretary Wallace and Administrator Hugh Bennett, the state extension services, the state experiment station directors, the state agricultural and conservation agencies, and say, "Now, here we've tried to do some of the preliminary think-through before you and with you. Now, let's talk about it. Is this something we can work together to put into effect?"

This is the way M.L.'s mind always worked. And this is the way his mind began to work on the erosion control problem. He called me in and said, "I don't want now to go to Hugh Bennett, and start talking about this. If I do, the first thing that will develop is, the federal bureaucracy within Agriculture." M.L. had great respect for the Federal bureaucracy. He was an outstanding

Federal bureaucrat. But he operated in the most intelligent and sensitive and farsighted method, as all bureaucrats hope to be able to do. Obviously, only the best of them can achieve it. But he said, "The argument of the SCS technicians is likely to be this, to Hugh Bennett. They'll say, 'Look, M.L. Wilson is threatening to destroy what we have built up and what we are going about doing. Where does the best core of American expertise in erosion control now rest? In SCS and its technicians. Where does the power to do something about it rest? Among the SCS technicians. So far we've already built the

You are a lawyer and you're supposed to know more about these structures of state and local units than I do. Let's work on this together. What I want from you is a sort of draft statute that states might consider, modify, and put into law to establish local units. Local soil conservation districts to be able to be established by a majority vote of approval by the farmers in the proposed boundaries of the district. Let them vote a district in. Let no district come into existence unless the farmers want it and approve it in a formal referendum." Then he said, "Let the district be governed by supervisors whom the farm-

talk to the state extension directors. I'll talk to the experiment station directors. We'll organize them in national meetings and in regional meetings and in state meetings. We'll keep pushing away at this idea in the hope that, ultimately, districts will be organized in every single state."

HELMS: Let me interrupt just one minute. Can you give us, within a couple of months, about when this sort of conversation was taking place?

GLICK: Surely. It began in the spring of 1935. M.L. had come to the Department of Agriculture around June or July of 1934. He had brought me over in the fall of 1934. Sometime in the spring of 1935, he called me in. I would say that it must have been around April or May of 1935, when we started these conversations. Typically, M.L. developed his own thinking by talking to people about what he had in mind. During this period he was talking to a great many people in the department, but he never became as explicit with them as he was with me. He wanted to wait until he had something concrete to propose. He didn't want to organize and stiffen up an opposition before they even knew what they were opposing, and before he had figured out how to deal with every type of opposition that he anticipated. He wanted to be able to say to every person who offered criticism, "Yes, of course, I agree with you, I sympathize with you. But look, here's how we propose to deal with that." He wanted to be able to indicate specifically how this danger was to be avoided. For the next two years this kind of a process went on. M.L. was, if I may

say so, gradually educating Secretary Wallace in why this kind of an operation would be necessary. He was planting in Hugh Bennett's mind the notion that it is perfectly possible to bring the states and the counties and the farmers into the erosion control planning and operation process, without in the slightest weakening the authority of SCS and the responsibility of SCS to participate in and direct erosion control work all over the nation. He wanted to win over the state extension directors without having them feel that SCS and the districts were planning to take over the responsibility of the county agents.

Having anticipated, having foreseen just exactly who the opponents would be and what kind of arguments they would offer, he was in effect asking himself, "How much soundness is there in their opposition? Let's work that into our plan. Their criticism offers us wisdom and a good many thoughts that we might not have been able to think of ourselves. This will enable us to test our idea against those problems." But he said, "The way to do it is to think it through clearly first and put it down on paper." Putting it down on paper was very important to M.L. "Let's get away from the fuzzy, generalized thinking which promotes so-called philosophic debates. Let's get down to concrete structures. Then we'll know, all of us, what we think the problems are and how we can meet them."

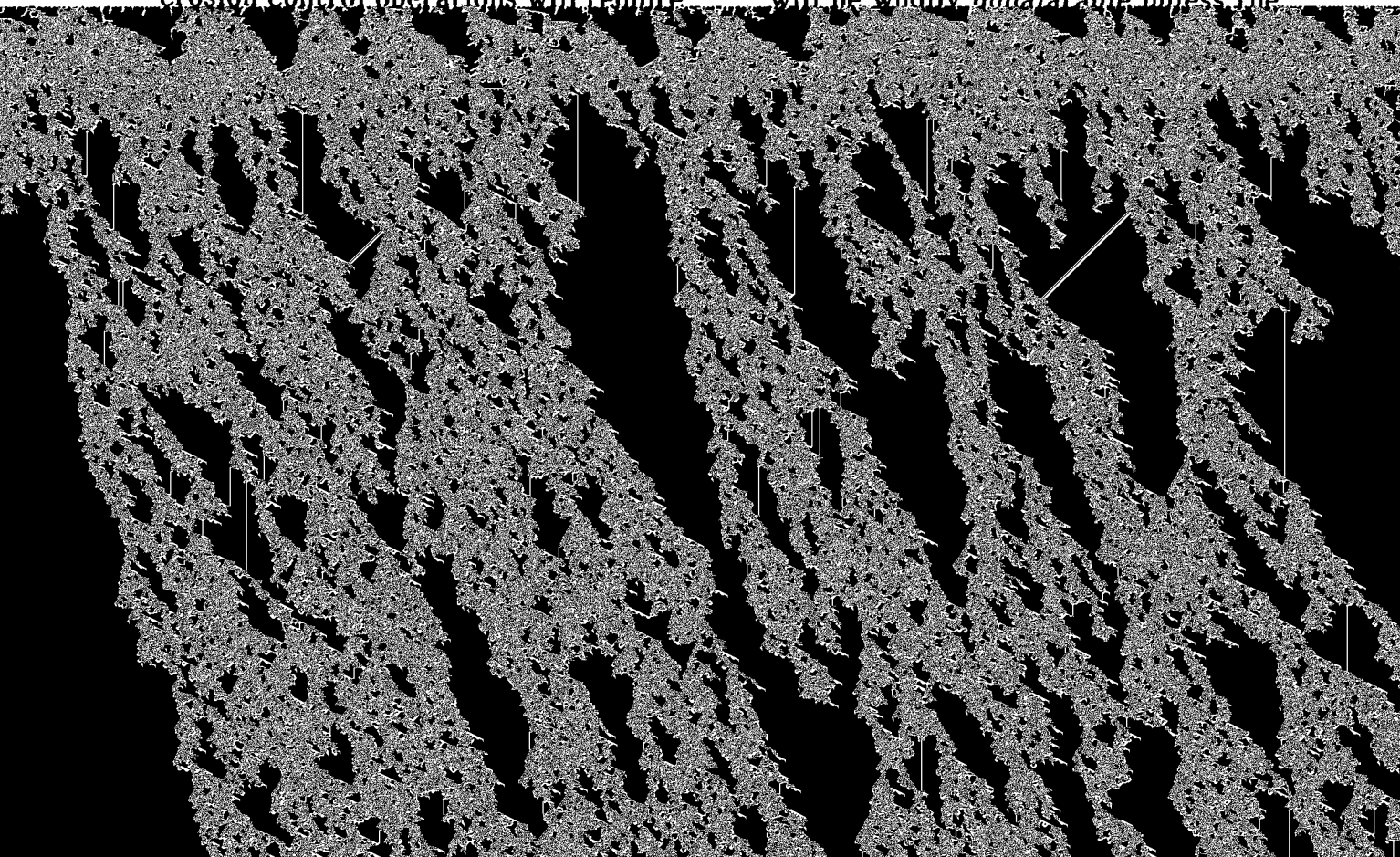
The basic idea that he laid out, I haven't clearly stated. Let me state it a little more fully. First, he wanted locally established soil conservation

districts. He wanted them to have broad power to plan and execute the erosion control projects. He wanted the supervisors of the districts to be elected by the farmers. That idea later was modified into a majority of the supervisors should be elected by the farmers. But assuming a board of five members, two of them should be appointed by the state soil conservation committee. He wanted a blend of democratic representation through elected supervisors and technical expertise so that at least two members of every single district board of supervisors, and of state soil conservation committees, would be people chosen because of their professional knowledge of the erosion control problem, and because of their knowledge of what techniques, machinery, equipment, supplies, practices would be needed to carry out the erosion control plan.

Two more ideas. One, he said, "Effective erosion control operations will require

districts in addition to the establishment of erosion control projects to be operated and financed by the districts. Now, public regulation of private land use is not popular in the United States and least popular among the American farmers. But," he said, "we must not run away from governmental instruments and governmental exercise of authority where it is essential in order to solve the problem effectively. If we don't show courage here, whom can we expect to show courage on problems of this kind.

"These are bound to be specific problem areas where it's essential to use governmental authority to get erosion stopped and erosion control started. This kind of regulatory power will be needed in many cases to supplement the voluntary collaboration of a farmer with the district in controlling erosion. This kind of exercise of public regulation power will be wholly unpalatable unless the



powers."

Another point that he stressed at that time was that the districts must not be financed through the power to levy additional taxes on lands within the district. He said, "American farmlands today are too heavily taxed." You must remember these conversations were being held in the depth of the depression in 1935 and 1936. He said, "The best way to put the kiss of death upon the proposed state legislation is to authorize the districts to impose new taxes upon the lands within the districts. They will need money to finance their operations. But that money will have to come in other ways, not from putting new taxes on the lands." He said, "The supervisors themselves won't want to impose additional taxes even if the statute authorizes them to. They won't want to have anything to do with collecting taxes from their neighbors and other people whom they know within the soil conservation district." From the very beginning he stressed that the sources of revenue must not include taxes upon lands within the district.

These were the broad basic ideas with which he began. He asked me then to outline what could be considered a sort of standard state soil conservation districts law. Then he said, "We can go over that outline and agree, section by section, on what this standard act should say." I began to do work on just exactly that. What I'd like very much to do is to go through what we call a Standard State Soil Conservation Districts Law, section by section, and indicate essentially just what each section says and why and how this relates to the principles and policies

that I've been trying to summarize by way of introduction.

Doug, maybe it would be a good idea at this point to stop and start our next section with section 1 of the district law.

May 26, 1983

HELMS: This is May 26th, and we are continuing our interview with Mr. Philip Glick.

GLICK: There is first something to be said about the title that we chose for the act. Practically every state has in its constitution a requirement that every general public law enacted by the state legislature shall open with a title that reveals the major provision of the statute in such a way that the attention of members of the legislature will be directed to the major effect that the new proposed legislation will have on government and the economy in the state. The courts have recognized that this kind of a constitutional provision is an internal safeguard on the work of the legislature and also serves a very important purpose of alerting the press and the public to the political, economic, and other implications of the proposed legislation. This is a sort of fairness to possible opponents of the bill, fairness to interests that may be adversely affected, so that the opposing interests will have time and opportunity to marshal their forces. This would make legislative hearings, when they come up, more penetrating, more suited to their

function.

Not everybody has seen all of these implications in these state constitutional requirements that every piece of legislation be preceded by such a title, but the courts saw it--saw it very clearly. So much so, that we have a long history of statutes that have been declared unconstitutional by the state supreme courts solely on the ground that the title of the act didn't contain these notices, these information flags, even though nothing in the statute violated any provision of the state or federal constitution. That was quite a development. As a matter of fact, lawyers in particular and of course competent political scientists, seem to be the only ones who know this. I've been personally surprised at how frequently I run into evidence in the course of political discussions of one thing or another, evidence that the speaker isn't aware of all of these significances in the title.

I called this to M.L.'s attention. He was intrigued by this. This was not in his area of thought and work, so he didn't really know about this particular thing. He pointed out, "We can use this to our advantage. We can then write a title that will not only be as revealing as the state constitution requires but would also be a very brief, terse summary of the whole act. Whenever we go to testify before a state legislative committee on the bill to enact such a law, we can call their attention to this. Let them look at

policy, but on federal state relations."

I'd like to tick off the points that the title that we wrote for the standard act includes, with this in mind. It starts out by saying that this is an act that will declare the necessity of creating new governmental subdivisions of the state to be known as soil conservation districts. That's obviously a very important point because these are to be governmental subdivisions, parallel to counties. It's not something to be done lightly without consideration of the effect it will have on the whole state governmental structure. That is the first point mentioned in the title, including, of course, the fact that these new political subdivisions will engage in conserving soil resources and preventing and controlling soil erosion. Then, the title calls attention to the fact that there will be established a new state administrative agency, the state soil conservation committee, and define their powers and duties. Then, to provide for the creation of these soil conservation districts--to define the powers and duties of the districts. We then point out that the powers of these new districts will include the power to acquire property by purchase, gift, or otherwise. Various state court decisions had already established the fact that when such a power is given in a statute, special attention needs to be called to it, because it's the kind of thing that

for the discontinuance of land use practices contributing to erosion and the adoption and carrying out of soil conserving practices and to provide for the enforcement of such programs and regulations. You will notice that the wording there is somewhat indirect. We were very cautious. We were sensitive and nervous actually about this point. I will deal with that more fully when we come to the sections in which we actually deal with what we call both "conservation ordinances" and "land use regulations." But this is the cautious way in which we refer to it in the title.

Then, we point out that the bill would provide for establishing boards of adjustment in connection with land use regulations. That it would provide for financial assistance to the districts and make an appropriation for that purpose, because of the important effect that this could well have on the annual state budget that the

You are not supposed to write an editorial in a statute. Policy declarations, therefore, are usually quite brief, all the more because the enunciation of a policy in a statute almost invites opposition. It will certainly invite a very searching analysis and examination of what is this policy that you propose to commit the state legislature to.

M.L. was keen and he saw that at once, although he was not a lawyer. He's not accustomed to analyzing and dealing with statutes. But he pointed out, "We can turn it to our advantage. We can come clean with the fact that the problem of erosion and the efforts to do something about it have become a very important aspect of agricultural policy, both for the nation and the state." He said, "This will in itself be an educational document." It's almost a preliminary argument to the legislature and to the press and to the public generally about